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OFFICE OF PETITIONS

In re Application of
Amey et al.
Application No. 10/659,644
Filed: September 10, 2003
Attorney Docket No. PI1220USDIV

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed August 17, 2006.

The petition to withdraw the holding of abandonment is Dismissed.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due, which were mailed April 15, 2004. The Notice of Allowance and Issue Fee (s) Due set a three (3) month period for reply. Accordingly, this application became abandoned on July 16, 2004. A Notice of Abandonment was mailed on August 17, 2004.

Petitioner asserts that the Notice of Allowability mailed April 2, 2004 was never received. In support, petitioner has provided a copy of the docket record where the Notice of Allowance would have been entered had the Notice been received. Petitioner contends on renewed petition Invista advised the USPTO of a change of address and change in power of attorney. Petitioner contends the USPTO did not enter the change in the above-identified application, although it was entered in parent application 09/628,993 now patent 6,677,484. Petitioner states this divisional application relies on the parent application for its assignment.

A review of the record shows a power of attorney and change of correspondence address has not been located for the above-identified application. Any change of

correspondence address or power of attorney entered in the parent will not of a matter of course be applied to the child. Further petitioner contends the change of address and power of attorney documents were submitted on September 21, 2005, well after the Notice of Allowance and Fees Due were mailed. The Notice of Allowance mailed on April 15, 2004 was properly addressed to E.I. Du Pont De Nemours and Company.

Where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address does not constitute unavoidable delay. See MPEP 711.03(c). Nor would the failure to promptly change the correspondence allow for withdrawing the holding of abandonment.

Petitioner may wish to file a petition under 37 CFR 1.137(b).

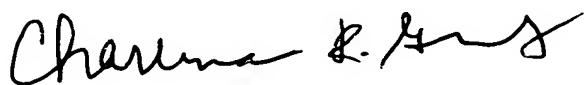
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
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Telephone inquiries concerning this matter should be directed to the undersigned at
(571) 272-3215.



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